

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JULY R. CARLAN,
a/k/a Shape Shifter,
Plaintiff,

V.

FENWAY COMMUNITY HEALTH
CENTER, INC.,
Defendant.

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Civil Action No. 1:23-12361-MJJ

UNITED STATES' STATUS REPORT

Pursuant to this Court's Order dated February 12, 2024, the United States, by and through its undersigned counsel, respectfully submits the following status report.

As stated in the United States’ Statement of Interest, under the Federally Supported Health Centers Assistance Act, the Federal Tort Claims Act provides the exclusive means of recovery for medical malpractice claims against “deemed” Public Health Service employees. *See* 42 U.S.C. § 233(a), (g). To that end, the Secretary of Health and Human Services has been diligently undertaking an analysis and determination as to whether Fenway Community Health Center, Inc. is a “deemed” Public Health Service employee with respect to the conduct at issue in this lawsuit. That said, because of the unique circumstances of this case, in which Plaintiff has purported to assert a claim under the Affordable Care Act, 42 U.S.C. § 18116, the Secretary requires a modest amount of additional time to complete its deeming determination and analysis concerning the relationship between 42 U.S.C. § 233(a) and the alleged conduct in this case. The Secretary anticipates completing this determination within 60 days, and the United States will promptly notify the Court once the Secretary completes his determination.

Accordingly, the United States respectfully requests an additional 60 days, until May 11, 2024, to notify the Court of its deeming determination.

Respectfully submitted,

UNITED STATES

By its attorney:

Joshua S. Levy
Acting United States Attorney

/s/ Nicole M. O'Connor
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Date: March 11, 2024

CERTIFICATE OF SERVICE

I, Nicole M. O'Connor, hereby certify that I served a true copy of the above document upon all parties of record via this court's electronic filing system on March 11, 2024.

Date: March 11, 2024

/s/ Nicole M. O'Connor
Nicole M. O'Connor